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F.#2011R0_____

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

11-0975M

- - - - -X

UNITED STATES OF AMERICA

C O M P L A I N T

- against -

(T. 18, U.S.C., §§ 1951,
924(c) and 2)

FRANCISCO PONCE,
also known as "Spoiler,"

Defendant.

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS:

SEAN C. MCMULLEN, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

Upon information and belief, on or about February 15, 2009, within the Eastern District of New York, the defendant FRANCISCO PONCE, also known as "Spoiler," together with others, did knowingly and intentionally conspire to obstruct, delay and affect commerce and the movement of articles and commodities in commerce by robbery, to wit: the robbery of the Pollo Campero restaurant in Lindenhurst, New York.

(Title 18, United States Code, Sections 1951 and 2).

Upon information and belief, on or about February 15, 2009, within the Eastern District of New York, the defendant FRANCISCO PONCE, also known as "Spoiler," together with others,

did knowingly and intentionally use and carry a firearm during and in relation to a crime of violence, to wit: the robbery of the Pollo Campero restaurant in Lindenhurst, New York.

(Title 18, United State Code, Sections 924(c) and 2).

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I have been a Special Agent with the FBI for approximately 15 years. I am familiar with the facts contained in this affidavit as a result of my participation in the investigation of the robbery discussed below, including, but not limited to, interviews with eyewitnesses and one or more confidential sources, a review of surveillance video and crime scene photographs, and conversations with other law enforcement officers assisting with the investigation.

2. On February 15, 2009, the defendant FRANCISCO PONCE, also known as "Spoiler," and three accomplices robbed the Pollo Campero² restaurant located at 155 West Sunrise Highway, Lindenhurst, New York (the "Pollo Campero"). The defendant was the getaway driver and his three co-conspirators, who wore hooded

¹ Because this Affidavit is being submitted for the limited purpose of establishing probable cause to arrest the defendant, I have not included details of every aspect of this investigation.

² Pollo Campero is an international restaurant chain, which is based in Guatemala and has more than 300 restaurants worldwide, in twelve different countries, including restaurants across the United States.

sweatshirts and ski masks and were armed with a handgun and a knife, carried out the robbery. The robbers held the employees at gun-point and forced the manager into the manager's office at knife-point, holding the knife to the manager's throat and forcing him to open the safe. The robbers stole approximately \$15,000 from the safe and fled from the store. The robbery was recorded by multiple surveillance cameras at the Pollo Campero.


3. After the robbery, one of the employees of Pollo Campero informed law enforcement officers that he/she recognized one of the robbers, who was subsequently identified, after the witness reviewed a photograph book ("Co-Conspirator-1"). That witness also told the law enforcement officers that Co-Conspirator-1 and two other individuals had been in the restaurant earlier that evening.

4. Subsequently, law enforcement officers reviewed the recording from the Pollo Campero surveillance cameras on the night of the robbery. On that recording, several hours before the robbery, Co-Conspirator-1 and two other individuals, one of whom matches the physical description of the defendant FRANCISCO PONCE, also known as "Spoiler," are seen at the Pollo Campero conducting, what appears, based on my review of the surveillance footage and my professional experience, to be surveillance of the restaurant, including the manager's office, where the business proceeds were kept in a safe.

5. During interviews two confidential sources, CS-1 and CS-2, respectively, informed law enforcement officers that the defendant FRANCISCO PONCE, also known as "Spoiler," was the getaway driver for the Pollo Campero robbery.

6. On September 29, 2011, law enforcement officers arrested the defendant. After being advised of his Miranda rights, the defendant FRANCISCO PONCE, also known as "Spoiler," waived those rights and agreed to speak to the law enforcement officers. During that interview, the defendant admitted, in sum and substance, that: (a) he is a member of La Mara Salvatrucha, the MS-13 street gang; (b) prior to the robbery, the defendant and his co-conspirators conducted surveillance of the Pollo Campero; (c) later that same day, he and his co-conspirators returned to the Pollo Campero robbery and robbed the restaurant; (d) he was the getaway driver for the robbery; and (e) he received approximately \$1,200 in proceeds from the robbery.

WHEREFORE, your deponent respectfully requests that the defendant FRANCISCO PONCE, also known as "Spoiler," be dealt with according to law.


SPECIAL AGENT SEAN C. MCMULLEN
Federal Bureau of Investigation

Sworn to before me this
30th day of September 2011


E. THOMAS BOYLE, MJ

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK